

DOCKET FILE COPY ORIGINAL

Before the
Federal Communications Commission
Washington, D.C. 20554

RECEIVED

JAN 28 1998

In the Matter of

1997 Annual Access Tariff Filings

)
)
)
)
)
)

CC Docket No. 97-149

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

REPLY COMMENTS OF THE SBC COMPANIES

Pursuant to Section 1.106 of the rules of the Federal Communications Commission (Commission), Southwestern Bell Telephone Company, Pacific Bell, and Nevada Bell (collectively, the SBC Companies) hereby reply to the oppositions¹ filed against their petition for reconsideration of that portion of the 1997 Annual Filing Order² which requires the use of an "R" adjustment for the removal of the equal access amortization.

I. REPLY

There is no dispute that the Order recognized that "the Commission has not required an "R" value adjustment to the PCI to reflect the end of the amortization of some costs."³ The Order specifically noted that in the cases of the depreciation reserve deficiency (RDA) and inside wiring amortizations, the Commission had not ordered any "R" adjustment. The Order goes on to recognize that "[t]he Commission also did not require an "R" value adjustment for the removal of payphone costs from the CCL charge coincident with the deregulation of LEC payphones in

¹ Oppositions were filed by AT&T Corp. (AT&T), MCI Telecommunications Corp. (MCI), and Sprint Corporation (Sprint.)

² 1997 Annual Access Tariff Filings, CC Docket No. 97-149, Memorandum Opinion and Order (FCC 97-403) (December 1, 1997) (1997 Annual Filing Order).

³ Id., para. 117.

1996.”⁴ There is also no dispute that the Order noted that:

With regard to the completion of the Other Post Employment Benefits (OPEB) amortization, the Bureau ... concluded that it would not require the LECs to make an "R" adjustment for the removal of OPEB costs in their 1995 annual access tariff filings, because the Commission had not specifically required such an adjustment in the *First Report and Order*.⁵

AT&T, MCI and Sprint all comment on the SBC Companies Petition requesting reconsideration of the required equal access ‘R’ value adjustment, urging the Commission to reject SBC’s Petition.

These oppositions attempt to justify the Commission’s new and different exogenous cost quantification methodology (ie: an ‘R’ value adjustment to the cost amount being removed from PCIs) by attempting to distinguish equal access costs from previous similar exogenous costs such as RDA, Inside Wire and OPEB, the removal of which were not subject to an ‘R’ value adjustment.⁶

These intervenors fail to convincingly show that equal access costs are distinguishable, and that a new interpretation of the application of the existing Price Cap exogenous cost rule (Section 61.45) or the establishment of a new exogenous cost rule is required. Contrary to MCI’s contention that this is the first time this issue has been before the Commission,⁷ an ‘R’ value adjustment applied to costs removed from Price Cap Indexes (PCIs) is not a new or novel idea that should require a change in the application of the exogenous cost rule or the establishment of a new rule.

⁴ *Id.*, para. 117.

⁵ *Id.*, para. 118.

⁶ AT&T, page 3, MCI, pages 3 & 4

⁷ MCI, page 4

As U.S. West points out in its Comments, the Commission had declined to require such an adjustment on four previous occasions.⁸ This action, or lack of action, should certainly be considered precedential as an accepted interpretation of the existing rule. A LEC should be able to reasonably expect a consistent interpretation of existing Commission rules. The attempt to justify the imposition of an 'R' adjustment on the basis that the exogenous cost rule (Section 61.45) allows the Commission to determine by rule, rule waiver or declaratory ruling that additional costs may be considered to be exogenous is misplaced.⁹ This language was established to address whether or not specific types of costs, not previously subject to Commission action, should be considered as exogenous. This language was never intended to justify a change in the application of the existing rule.

The precedent of the Commission's past decisions should be followed, and the Commission must not undermine the effect of its prior orders. The appropriate path for the Commission to pursue with respect to the equal access costs is a full rulemaking with appropriate notice and comment, not an ad hoc determination that an "R" adjustment is to be used. None of the oppositions provide any compelling reason to ignore the precedent and to avoid a rulemaking.

II. CONCLUSION

For the foregoing reasons, the SBC Companies respectfully request that the Commission reconsider and reverse that portion of its recent order on the SBC Companies' 1997 Annual

⁸U.S. West, page 10

⁹AT&T, pages 3 & 4

Access Tariff Filings which requires the use of an "R" adjustment for the removal of the equal access amortization.

Respectfully submitted,

SOUTHWESTERN BELL TELEPHONE COMPANY
PACIFIC BELL
NEVADA BELL

By

A handwritten signature in cursive script, appearing to read "R. M. Lynch", written over a horizontal line.

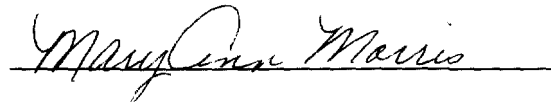
Robert M. Lynch
Durward D. Dupre
Michael J. Zpevak
Thomas A. Pajda
One Bell Plaza, Room 2403
Dallas, Texas 75202
(214) 464-5307

Their Attorneys

January 28, 1998

Certificate of Service

I, Mary Ann Morris, hereby certify that the foregoing , "Comments of Southwestern Bell Telephone Company" in CC Docket No. 97-149 has been filed this 28th day of January , 1998 to the Parties of Record.

A handwritten signature in cursive script, reading "Mary Ann Morris", is written over a horizontal line.

Mary Ann Morris

January 28, 1998

**MCI TELECOMMUNICATIONS CORPORATION
ALAN BUZACOTT
REGULATORY ANALYST
1801 PENNSYLVANIA AVENUE NW
WASHINGTON DC 20006**

**ITS INC
1231 20TH STREET
GROUND FLOOR
WASHINGTON DC 20036**

**MARK C ROSENBLUM
PETER H JACOBY
JUDY SELLO
AT&T CORP
ROOM 3244H
295 NORTH MAPLE AVENUE
BASKING RIDGE NJ 07920**

**COMPETITIVE PRICING DIVISION (2 COPIES)
COMMON CARRIER BUREAU
ROOM 518
1919 M STREET N W
WASHINGTON DC 20554**

**REGINA M KEENEY
CHIEF COMMON CARRIER BUREAU
FEDERAL COMMUNICATIONS COMMISSION
ROOM 500
1919 M STREET NW
WASHINGTON DC 20554**

**EDWARD SHAKIN
BELL ATLANTIC CORPORATION
1320 NORTH COURT HOUSE ROAD
EIGHTH FLOOR
ARLINGTON VA 22201**

**H RICHARD JUHNKE
JAY KEITHLEY
SPRINT CORPORATION
1850 M ST NW 11TH FL
WASHINGTON DC 20036**